



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/025,531	02/18/98	BECKMAN	J 1-5119

027210 QM12/1016  
MACMILLAN, SOBANSKI & TODD, LLC  
ONE MARITIME PLAZA - FOURTH FLOOR  
720 WATER STREET  
TOLEDO OH 43604

EXAMINER

NGUYEN, T

ART UNIT

PAPER NUMBER

3726

DATE MAILED:

10/16/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/025,531

Applicant(s)  
Beckman

Examiner  
Trinh Nguyen

Art Unit  
3726



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Aug 7, 2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-848)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

Art Unit: 3726

## DETAILED ACTION

### *Continued Examination under 37 CFR 1.114 After Final Rejection*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1-17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/7/01 has been entered.

### *Limitations Not Considered*

2. In claims 1 and 11, the "is adapted to" phrase has not been found to be patentably limiting because it has been held the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371<sup>9</sup> of this title before the invention thereof by the applicant for patent.

4. Claims 1, 2, 4-7, 11 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Horton et al. (US 5,862,877).

Art Unit: 3726

**Horton et al.** discloses a method for manufacturing a vehicle frame assembly that is adapted to be resiliently supported upon a plurality of vehicle wheels by a suspension system and is adapted to serve as a platform for a body portion of the vehicle can be mounted (see lines 12-17 of col. 1, lines 48-52 of col. 5, and lines 42-48 of col. 5) comprising the steps of: hydroforming the side frame members (12, 112, 14, 114, 26, 126) to form a plurality of integrally mounting structures thereon (38, 60, 42, 43, 202), wherein the integrally mounting structures comprise of apertures in which various vehicle components can be mounted directly to the integrally mounting structures (see lines 1-50 of col. 5); and securing a cross member (24) to the side frame members. As shown in Figure 2 at 126, note that the integrally mounting structure comprises an inwardly extending protrusion which is shaped to support any vehicle components.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 3, 8-10, 12, 13, and 15-27** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Horton et al.** (US 5,862,877).

With respect to claims 3, 8, and 15, Horton et al. discloses the claimed invention as stated above in paragraph 4 except for specifying the location of the aperture relative to various

Art Unit: 3726

brackets. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the aperture located at a certain specific location as claimed, since it has been held that rearranging parts of an invention involves only routine skill in the art.

With respect to claims 9, 10, 12 and 13, Horton et al. discloses the claimed invention as stated above in paragraph 4 except for specifying that both the first and second side frame members comprise an inwardly extending protrusion thereon. However, since Horton et al.'s method of manufacturing teach the step of forming an inwardly protrusion on a frame member during a hydroforming process, one of ordinary skill in the art would have found it obvious to form another inwardly protrusion onto another frame member, so as to provide an additional mounting structure for the entire cradle assembly.

With respect to claims 16-27, Horton et al. teach the claimed invention as stated above in paragraph 4 but lack the claimed steps of "connecting" various vehicle components (i.e., the control arms, the engine, the cab, the leaf springs, the box, and the bumper assembly) to the integrally mounting structure of either the first or second side frame members. However, an Official Notice is taken that one of ordinary skill in the art would be found it obvious to connect various vehicle components, such as control arm, engine, cab, leaf spring, box, and/or bumper assembly, to the integrally mounting structure, so as to form a complete motor vehicle which can operate efficiently, since these components are the main bulk that drive the whole operation of the motor vehicle.

Art Unit: 3726

*Response to Arguments*

7. Applicant's arguments filed 8/7/01 have been fully considered but they are not persuasive.
8. In response to Applicant's argument that Horton's engine cradle assembly is not a vehicle frame assembly, the Examiner disagrees. A fair reading of the claim language permits the Examiner to interpret Horton's engine cradle assembly as a vehicle frame assembly since the engine cradle assembly does include similar structures (i.e. a pair of side rails having integrally formed mounting structure and cross members) as the vehicle frame assembly as claimed by the Applicant. Also, Horton's engine cradle assembly is capable of performing the same function as Applicant's vehicle frame assembly (i.e., both are adapted to be resiliently supported upon a plurality of vehicle wheels by a suspension system and are adapted to serve as a platform for a body portion of the vehicle can be mounted).

*Conclusion*

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trinh Nguyen whose telephone number is (703) 306-9082.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1148.

Application/Control Number: 09/025,531

Page 6

Art Unit: 3726

ttn

October 16, 2001

JCARL  
Du377c